United Nations S/2005/127

Security Council

Distr.: General
28 February 2005
English
Original: French

Letter dated 24 February 2005 from the Secretary-General addressed to the President of the Security Council

I have the honour to refer to resolution 827 (1993) of 25 May 1993, by which the Security Council established the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991.

Article 13 and article 13 ter of the statute of the Tribunal, as amended, provide as follows:

"**Article 13**
"**Qualifications of judges**

"The permanent and *ad litem* judges shall be persons of high moral character, impartiality and integrity who possess the qualifications required in their respective countries for appointment to the highest judicial offices. In the overall composition of the Chambers and sections of the Trial Chambers, due account shall be taken of the experience of the judges in criminal law and international law, including international humanitarian law and human rights law.

"**Article 13 ter**
"**Election and appointment of ad litem judges**

"1. The *ad litem* judges of the International Tribunal shall be elected by the General Assembly from a list submitted by the Security Council in the following manner:

"(a) The Secretary-General shall invite nominations for *ad litem* judges of the International Tribunal from States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters.

"(b) Within sixty days of the date of the invitation of the Secretary-General, each State may nominate up to four candidates meeting the qualifications set out in article 13 of the Statute, taking into account the importance of a fair representation of female and male candidates.

"(c) The Secretary-General shall forward the nominations received to the Security Council. From the nominations received the Security Council shall establish a list of not less than 54 candidates, taking due account of the

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adequate representation of the principal legal systems of the world and bearing in mind the importance of equitable geographical distribution.

"(d) The President of the Security Council shall transmit the list of candidates to the President of the General Assembly. From that list the General Assembly shall elect the 27 *ad litem* judges of the International Tribunal. The candidates who receive an absolute majority of the votes of the States Members of the United Nations and of the non-member States maintaining permanent observer missions at United Nations Headquarters shall be declared elected.

"(e) The *ad litem* judges shall be declared elected for a term of four years. They shall not be eligible for re-election.

"2. During their term *ad litem* judges will be appointed by the Secretary-General, upon request of the President of the International Tribunal, to serve in the Trial Chambers for one or more trials, for a cumulative period of up to, but not exceeding three years. When requesting the appointment of any particular *ad litem* judge, the President of the International Tribunal shall bear in mind the criteria set out in article 13 of the Statute regarding the composition of the Chambers and sections of the Trial Chambers, the considerations set out in paragraph 1 (b) and (c) above and the number of votes the *ad litem* judge received in the General Assembly."

Pursuant to paragraph 1 (a) of article 13 ter of the statute of the Tribunal, States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters were invited, by means of a letter dated 16 December 2004, to submit nominations for 27 *ad litem* judges of the Tribunal and were informed that, within 60 days of the date of that letter and not later than 14 February 2005, they might nominate up to four candidates meeting the qualifications set out in article 13 of the statute of the Tribunal.

They were informed that, should they decide to nominate two or more candidates, they were then at liberty, should they wish to do so, to nominate candidates of the same nationality. They were also informed that they were at liberty, should they wish to do so, to nominate a candidate or candidates who were of the same nationality as a permanent judge of the Tribunal.

They were further advised that, should they decide to nominate a candidate or candidates, in accordance with paragraph 1 (b) of article 13 ter of the Tribunal's statute, they should take account of the importance of a fair representation of female and male candidates.

Pursuant to paragraph 1 (c) of article 13 ter of the statute of the Tribunal, I have the honour herewith to forward to the Security Council the 11 nominations which have been received from States Members of the United Nations within the 60-day period specified in paragraph 1 (b) of article 13 ter of the statute. The list of candidates,* in alphabetical order, is annexed to this letter, together with the curricula vitae which have been provided to me in connection with their nominations.

* Circulated only to the members of the Security Council.

I would draw the attention of the Security Council to paragraph 1 (c) of article 13 of the statute of the Tribunal, which provides in part as follows: "From the nominations received the Security Council shall establish a list of not less than 54 candidates, taking due account of the adequate representation of the principal legal systems of the world and bearing in mind the importance of equitable geographical distribution."

I would note that the attached list of candidates is short of the minimum number of 54 which is required by paragraph 1 (c) of article 13 ter of the statute of the Tribunal. I would accordingly suggest that the Security Council extend the deadline for nominations until 31 March 2005. If the Security Council were so to extend the deadline, I would notify States Members of the United Nations and non-member States maintaining permanent observer missions at United Nations Headquarters accordingly.

(*Signed*) Kofi A. **Annan**